

REMARKS

FORMAL MATTERS:

Claims 1, 2, 3, 6 and 32 are pending after entry of the amendments set forth herein.

Claims 8 and 9 are canceled without prejudice.

Claims 1, 2 and 6 are amended. New claim 32 has been added.

Support for the amendments to claims 1 and 6 are contained within previously pending now canceled claims 8 and 9. The amendments to claim 2 place claim 2 in independent form using the same language as contained within claim 1 and also adding the limitation added to amended claim 1.

New claim 32 is identical to claim 1 except that it claims the SEQ ID NO:3. SEQ ID NO:3 is the cDNA corresponding to the genomic DNA recited in SEQ ID NO:2 and claimed within independent claim 1. Accordingly, new independent claim 32 is supported at the same portions of the original claims and specification as indicated for independent claim 1.

In order for antisense to work it binds to the mRNA and as such the claims are amended to reflect this.

Applicants recognize that limited amendments are permitted after final under 37 C.F.R. §1.116. However, here claims 1 and 6 have been amended to incorporate limitations contained within the previously pending now canceled dependent claims. And as such these amendments should be entered. The amendments to claim 2 merely place claim 2 in independent form and include the same limitations added to independent claims 1 and 6. New claim 32 is identical to claim 1 except that it claims the cDNA sequence corresponding to the genomic DNA sequence which is claimed in claim 1. Accordingly, the claim amendments are not believed to add new issues which would require new searching on the part of the Examiner. Thus, entry of the amendments is respectfully requested.

REJECTIONS UNDER §101

Applicants gratefully acknowledge the Examiner's withdrawal of the 35 U.S.C. §101 rejection.

REJECTIONS UNDER §112, ¶2

Applicants gratefully acknowledge the Examiner's withdrawal of the previous 35 U.S.C. §112, second paragraph rejection.

REJECTIONS UNDER §103(A)

Applicants gratefully acknowledge the Examiner's withdrawal of the 35 U.S.C. §103 obviousness rejection.

REJECTIONS UNDER §112, SECOND PARAGRAPH

Claim 8 was rejected under 35 U.S.C. §112, second paragraph. Without acquiescing to the validity of the rejection applicants point out that the rejection has been rendered moot by the cancellation of claim 8 from the application.

REJECTION UNDER 35 U.S.C. §112, FIRST PARAGRAPH

Claims 1-3, 6 and 8 have been rejected under 35 U.S.C. §112, first paragraph. However, claim 9 has been indicated as being allowable if rewritten in independent form. Amended claims 1 and 6 incorporate the limitations contained within previously pending now canceled claim 9. Accordingly, claims 1 and 6 are believed to be allowable.

Claim 2 is the independent form of previous dependent claim 2. Further, claim 2 now incorporates the limitations contained within previously pending now canceled claim 9 and as such as believed to be allowable.

New claim 32 is identical to the amended form of claim 1 except that it claims the cDNA of SEQ ID NO:3 whereas claim 1 claims the genomic DNA of SEQ ID NO:2. Accordingly, new claim 32 is also believed to be in allowable form and an indication of such is respectfully requested.

CONCLUSION

Applicants recognize that the Examiner has considerable discretion with respect to the entry of the amendments after final. With the current amendments applicants made a diligent effort not to create more work for the Examiner and to place each of the claims in a form which, based on the last Office Action, should be allowable in view of the indication of the allowability of now canceled dependent claim 9. Accordingly, applicants respectfully request entry of the amendments and gratefully acknowledge the Examiner's withdrawal of the other rejections.

Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number BERK-016CIP.

Respectfully submitted,

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